

10/574,593

REMARKS

Upon receipt of this response, the Examiner is respectfully requested to contact the undersigned representative of the Applicant to arrange a telephone interview concerning the inventive merits of this application.

The Applicant notes that claims 27-31, 34-42, 44, 45 and 48-50 are withdrawn from further consideration as being directed to the non-elected species. Those claims are canceled, without prejudice, from this application.

Fig. 5 is amended, per the attached, to overcome a noted informality contained therein—i.e., Fig. 5 is amended to illustrate that element 36 is a continuously variable transmission as is disclosed in paragraphs [063] and [064] of the specification, for example. The requested amendment harmonizes Fig. 5 with element 36 shown Figs. 6, 7 and 8 of the originally filed and discussed in paragraph [068] without entering any new subject matter. The accompanying new Replacement Sheet of formal drawing incorporates the requested drawing amendment. If any further amendment to the drawings or the specification is believed necessary, the Examiner is invited to contact the undersigned representative of the Applicant to discuss the same.

Next, claims 26, 32, 33, 43 and 46 are then first rejected, under 35 U.S.C. § 102(e), as being anticipated in view of Gumpoltsberger '011. The Applicant acknowledges and respectfully traverses the raised anticipatory rejection in view of the following remarks.

As the Examiner is well aware, the effective filing date of a reference, under 35 U.S.C. § 102(e), is its United States filing date which may be the filing date of an international application provide that certain conditions are met. It is respectfully submitted that the international filing date, or the effective United States filing date, of Gumpoltsberger '011 is April 28, 2004. It is to be noted that a reference applied, under 35 U.S.C. § 102(e), can be overcome if the Applicant perfects a priority claim to a foreign filed application which has a filing date earlier than the effective date of the reference applied under 35 U.S.C. § 102(e). In the present case, it is to be appreciated that the subject matter of the above identified application is identical to the subject matter of German Priority Applicant No. 103 48 960.6 filed October 22, 2003—see attached English translation of German Priority Applicant No. 103 48 960.6 filed October 22,

2003 which is enclosed for review and consideration by the Examiner. Upon reviewing the same, the Examiner will note that all of the subject matter of the above identified application, is identical to the subject matter of the priority application and thus all of the subject matter of the above identified application is entitled to an October 22, 2003 date. Accordingly, Gumpoltsberger '011 is no longer a proper prior art citation, under 35 U.S.C. § 102(e), and the raised rejection in view of that reference should be withdrawn.

Notwithstanding the forgoing, the Applicant contends that the transmission for distributing torque, according to the applied Gumpoltsberger '011 reference, is distinctly different from the presently claimed invention. As can be seen in Fig. 11 and described in paragraphs [0068] and [0069] of Gumpoltsberger '011, the transmission 1 includes a torque source 28 which is designed as an "electric motor." The torque source 28 drives a counter shaft 23 supporting two opposed spur gears 24, 32. The first spur gear 24 drives the sun gear 9 of a first planetary gearset 2 while the second spur gear 32 drives the sun gear 20 of another planetary gearset 3, via an intermediate gear 38. It should be noted that the torque source 28, as noted above, is an electric motor--and not a continuously variable transmission (CVT)--and, it is respectfully submitted that, the torque source 28 drives both of the spur gears 24 and 32, via the counter shaft 23, in the same rotation direction and at the *same* rotational speed. There does not appear to be any other mechanism for driving the two spur gears 24, 32 at *different* rotational speeds from one another. As a result of this arrangement, it is respectfully submitted that the torque source 28 is static.

In distinct contrast to the transmission 1 of Gumpoltsberger '011, the presently claimed invention includes a regulated and controllable active connection 11, e.g, a continuously variable transmission (CVT), having a pair of opposed spur gears 33, 35. The first spur gear 33 is coupled with a third shaft 9 of a first planetary gearset 2 while the other spur gear 35 is coupled with, via an intermediate gear 34, a third shaft 10 of a second planetary gearset 3. The torque transferred to or from the third shaft 9 of the first planetary gearset 2 is dependent on the torque transferred to or from the third shaft 10 of the second planetary gear set 3, and vice versa, and controlled by the active connection 11. More simply stated, the torque transferred to or from the active connection 11, via the first spur gear 33 and the third shaft 9, to the

planetary gearset 2 is variable relative to the torque transferred to or from the active connection 11, via the second spur gear 35, the intermediate gear 34 and the third gear 10, to the second planetary gearset 3.

In order to emphasize the above noted distinctions between the presently claimed invention and the applied art, each one of the pending independent claims now recites the features of a continuously variable transmission 36 for varying a degree of distribution of the drive torque, between the first and the second output shafts 7 and 8 between an upper limit and a lower limit value by a adjustment of a transmission ratio of the continuously variable transmission 36. Such features are believed to clearly and patentably distinguish the presently claimed invention from all of the art of record, including the applied art of Gumpoltsberger '011.

Next, claims 26, 32, 33, 43 and 46 are also rejected, under 35 U.S.C. § 102(e), as being anticipated in view of Terumitsu '946. The Applicant acknowledges and respectfully traverses the raised anticipatory rejection in view of the following remarks.

Terumitsu '946 relates to a mechanism 21 for smoothly turning a tractor at a desired turning radius. It is respectfully submitted that mechanism 21 is distinctly different from the presently claimed invention. More specifically, the mechanism 21 according to Terumitsu '946 includes an input shaft 31 that communicates with and drives, via gears 32, 31, a shaft 29. This single shaft 29 has two sun gears 26 each of which drives a different planetary gearset 24, 25. Both of these gearsets 24, 25 include a planetary gear carrier 26 which is directly affixed to one of two output shafts 33, 34.

The gearsets 24, 25 communicate with a device 36 that, in turn, communicates with a steering wheel 5 by a number of mechanisms (see Figs. 5 - 8 and 10) thus facilitating smoother turning of the tractor by presumably controlling rotation of the output shafts 33, 34. It should be noted that the device 36 has a single shaft 37 with a single gear 38 extending therefrom which drives another shaft 39 having two gears 41, 42, one at each respective end thereof. Each of these gears 41, 42 of the shaft 39 provides drive to one of the gearsets 24, 25 which, in turn, drives one of the output shafts 33, 34 and one of the front and rear wheels 4, 5 (see Abstract, for example).

In short, the device 36 drives both of the gears 41, 42 at the *same* rotational speed. It is respectfully submitted that there is no mechanism for facilitating driving each gear 41, 42 in a **different rotational direction**. Accordingly, it is respectfully submitted that the device 36 for increasing or decreasing speeds of the wheels 4, 7 is also static. This is in distinct contrast to the presently claimed invention for the reasons enumerated above with regard to Gumpoltsberger '011.

Next, claim 43 is rejected, under 35 U.S.C. § 102(e), as being anticipated in view of Shibahata '977. The Applicant acknowledges and respectfully traverses the raised anticipatory rejection in view of the following remarks.

Shibahata '977 relates to a differential gear D and has first and second planetary gearsets P_R , P_L . This differential gear D, similar to the transmission of Gumpoltsberger '011, includes a drive source 9 with a single drive shaft 10, which has two spur gears 11_3 , 11_4 . Similar to Gumpoltsberger '011, each of these two spur gears 11_3 , 11_4 drives one of the first and the second planetary gearsets P_R , P_L . As the two spur gears 11_3 , 11_4 are both driven by the drive source 9 via the drive shaft 10, it is respectfully submitted that there could be no variability in rotation *between the two spur gears 11_3 , 11_4* . Therefore, it is respectfully submitted that the torque applied to one of the sun gears 6_L , 6_R can not be variable in relation to the torque applied to the other of the sun gears 6_L , 6_R . Accordingly, it is respectfully submitted that the arrangement of Shibahata '977 is distinctly different from the presently claimed invention for the reasons enumerated above with regard to both Gumpoltsberger '011 and Terumitsu '946.

Lastly, claims 46 and 47 are rejected, under 35 U.S.C. § 103, as being unpatentable over Shibahata '977 in view of Murakami '954. The Applicant acknowledges and respectfully traverses the raised obviousness rejection in view of the above amendments and the following remarks.

In view of the cancellation of claims 46 and 47, the Applicant respectfully submits that further comments concerning the applied prior art of Shibahata '977 in view of Murakami '954 is not believed necessary. The Applicant also notes the remaining prior art cited in the official action. As none of that additional art is applied by the Examiner against

the claims of this application, the Applicant is not providing any comments concerning that art as well.

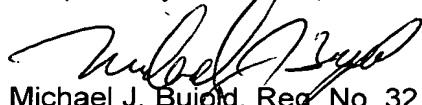
In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejections should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejections or applicability of the Gumpoltsberger '011, Terumitsu '946, Shibahata '977 and/or Murakami '954 references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



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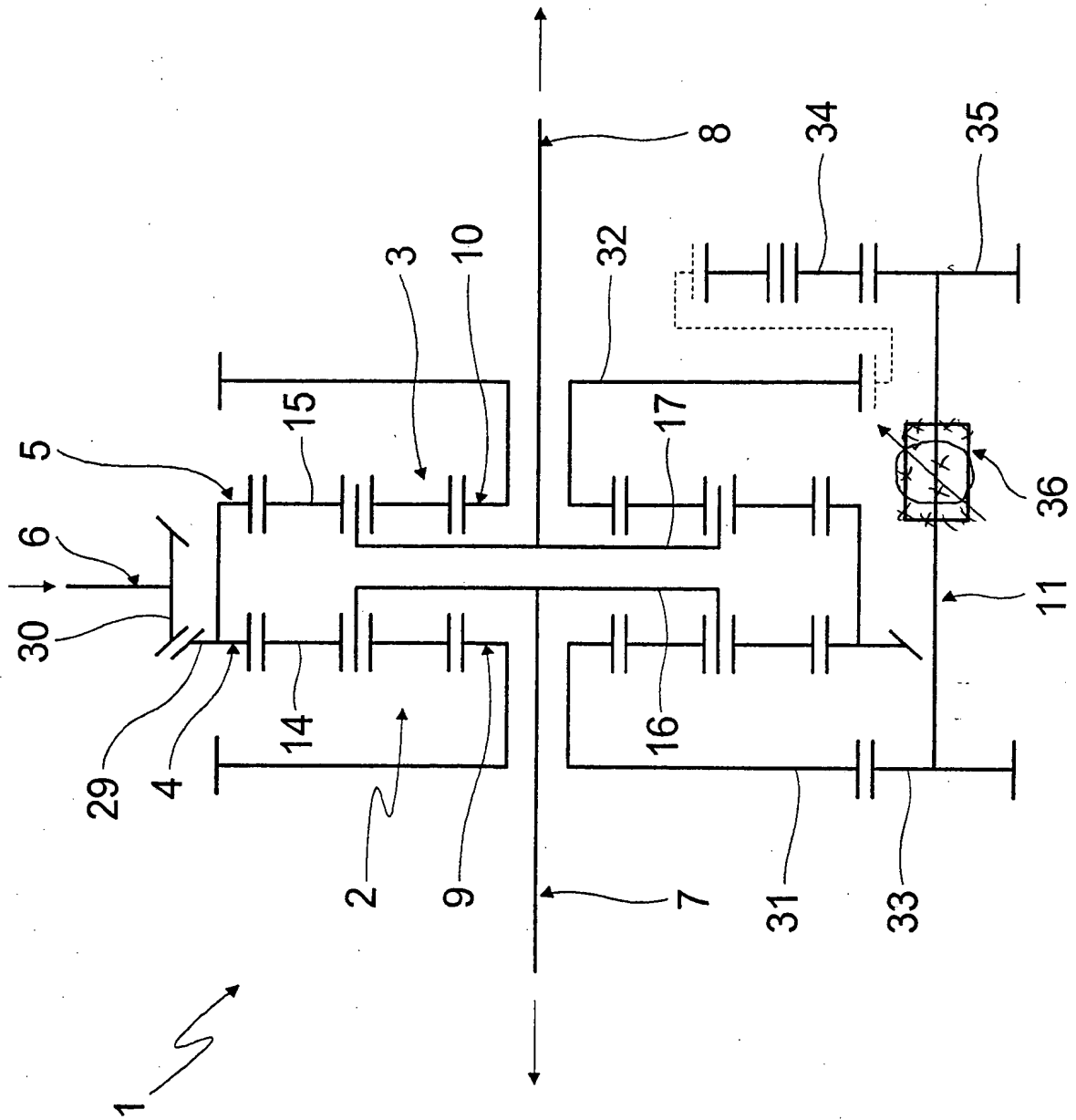


Fig. 5